

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

THE STATE OF OHIO	)	
	)	
and	)	
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Case No. 23-cv-517
	)	Hon. John R. Adams
	)	
NORFOLK SOUTHERN RAILWAY	)	
COMPANY	)	
	)	
and	)	
	)	
NORFOLK SOUTHERN	)	
CORPORATION,	)	
	)	
Defendants.	)	
_____	)	

**UNITED STATES OF AMERICA’S**  
**AMENDED NOTICE OF LODGING OF PROPOSED CONSENT DECREE**

1. Plaintiff United States of America filed a Complaint against Norfolk Southern Railway Company and Norfolk Southern Corporation (collectively “Norfolk Southern” or “Defendants”) on March 30, 2023, and amended the complaint on May 19, 2023 [Dkt. 22], under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9607, and Sections 309 and 311 of the Federal Water Pollution Control Act (also known as the Clean Water Act or “CWA”), 33 U.S.C. §§ 1319 and 1321. Plaintiff seeks penalties and injunctive relief under the CWA, recovery of its response costs under CERCLA, as well as damages for injury to, loss of or destruction of natural resources under CERCLA.

2. Defendants have entered into the proposed Consent Decree which has been signed by authorized representatives of the United States and the Defendants.

3. On May 23, 2024, the United States filed a *Notice of Lodging of Proposed Consent Decree* [Dkt. 138].

4. The *Notice of Lodging* noted that in accordance with 42 U.S.C. § 9622(d)(2) and 28 C.F.R. § 50.7 (1996), following the lodging of the proposed Consent Decree, the United States Department of Justice would publish notice of the Consent Decree in the Federal Register to commence a 30-day comment period.

5. On May 30, 2024, notice was published in the Federal Register, 89 Fed. Reg. 46908, requiring comments be submitted no later than 30 days after the publication date of the notice (June 30, 2024).

6. On June 6, 2024, the United States received a public comment from Plaintiff State of Ohio requesting that the close of the public comment period be extended to no earlier than August 1, 2024. *See also State of Ohio's Notice of Request for Extension of Comment Period* [Dkt. 140].

7. Having reviewed and considered Ohio's request, the United States has extended the public comment period until Friday, August 2, 2024. Notice of the proposed Consent Decree and the revised public comment period has been republished in the Federal Register. *See* 89 Fed. Reg. 50635.

8. The Court should not enter the proposed Consent Decree until the public has had an opportunity to comment and the United States has addressed those comments, if any.

9. The United States will consider and file with the Court written comments received on the proposed Consent Decree along with the United States' response to those comments.

10. The United States may withdraw or withhold its consent to the proposed Consent Decree if the comments disclose facts or considerations which indicate that the proposed Consent Decree is improper, inappropriate, inadequate, or not in the public interest.

11. At the conclusion of the public comment period, the United States will either: (1) notify the Court of its withdrawal of the proposed Consent Decree, or (2) respond to any comments received and move this Court to enter the proposed Consent Decree.

12. This commenting procedure is also identified and articulated in the proposed Consent Decree itself. See Consent Decree, Paragraph Nos. 173-174.

Respectfully submitted,

TODD KIM  
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Environment and Natural Resources Division

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *United States of America's Amended Notice of Lodging of Proposed Consent Decree* was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by U.S. mail. Parties may access this filing through the Court's system.

6/14/24

Date

s/ Jeffrey A. Spector

Jeffrey A. Spector